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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UA 97/UP 194

In the Matter of)
)
PACIFICORP) ORDER
)
Application for Approval of the Transfer of)
Electric Properties and Service Territory.)

DISPOSITION: APPLICATION FOR TRANSFER GRANTED

Background. On April 12, 2002, the Public Utility Commission of Oregon received an application from PacifiCorp requesting approval to transfer a portion of the Company's electric distribution and transmission system (the Facilities) located within the County of Linn, Oregon, to the Emerald People's Utility District (EPUD). In addition, PacifiCorp requests approval of allocation of the service territory served by the Facilities and condemned by EPUD (the Halsey Territory) to EPUD.

The provisions of ORS 757.480 require Commission approval of any transaction selling or otherwise disposing of public utility property necessary or useful in the performance of the public utility's duties to the public. PacifiCorp seeks a Commission order approving the transfer of the Facilities to EPUD, pursuant to ORS 757.480. In addition, PacifiCorp seeks a Commission order confirming the transfer to EPUD of the Halsey Territory, pursuant to the terms of ORS 758.415 and ORS 758.470.

Description of Assets to be Transferred. PacifiCorp proposes to transfer all its facilities within the American Can substation and the portion of the 69 kV north loop and south loop transmission lines and poles on the customer side of the Diamond Hill 69 kV transmission line and Halsey switching station. These transmission lines provide a dual feed from PacifiCorp's transmission system to the American Can substation. In addition, PacifiCorp proposes to transfer the distribution transformers and service drops used to serve the customers in the Halsey Territory. PacifiCorp will retain the distribution underbuild, conductors, and associated facilities that are attached to the poles to be transferred.

The American Can substation is a 69 kV substation located on property owned by Pope & Talbot. The American Can substation and associated facilities are dedicated to serve the Pope & Talbot and Georgia Pacific mills located adjacent to the substation. Excluded from the transfer are the facilities that will continue to be used by PacifiCorp to provide service to customers outside the territory condemned by EPUD and distribution wheeling service to the residential customers located within the Halsey Territory. The transfer of assets does not include all the operating facilities of either party to the transaction.

The Halsey Territory may generally be described as follows:

HALSEY SERVICE BOUNDARY

Beginning at the east quarter corner of Section 2, Township 14 South, Range 4 West of the Willamette Meridian in Linn County, Oregon; thence continuing N 00°20'58" E along the east line of said Section 2 a distance of 988.19 feet to a point marked by a 1-1/2 inch iron pipe; thence leaving said section line and run west parallel with the South line of the Northeast quarter of said Section 2 a distance of 2,637.67 feet to a point in the center of Muddy Creek; thence run downstream along the centerline of said Muddy Creek to a point that is 1,287 feet south of the north line of said Section 2 (said point bears N 43°40'44" W a distance of 698.38 feet from the last mentioned point in the center of Muddy Cr.) and which is referenced by a 5/8 inch iron rod which bears N 88°25'57" W a distance of 161.90 feet; thence S 88°32' E 421.1 feet; thence North 825 feet; thence East 198 feet; thence North 462 feet to the north line of said Section 2; thence north to the center of Market Road No. 3 in Linn County, Oregon; thence westerly following the centerline of Market Road No. 3 to its intersection with the easterly right-of-way line of said Oregon Electric Railroad property to its intersection with the northerly right-of-way line of the Oregon Electric Railroad in the southwest quarter of Section 34, Township 13 South, Range 4 West of said Meridian; thence southerly along the easterly right-of-way line of County Road No. 221 (Crook Drive); thence continuing S 1°22'W 20.0 feet to the center line of said County Road No. 221; thence S 89°40'30" E along centerline of said County Road No. 221, a distance of 1874.46 feet to a point on the east line of the northwest quarter of Section 10, Township 14 South, Range 4 West, said point being 439.62 feet S 00°03'35" E of a stone marking the northeast corner of the northwest quarter of said Section 10; thence N 00°03'35" W 439.62 feet to the northeast corner of the northwest quarter of said Section 10; thence S 89°40'25" E along the north line of Section

10, a distance of 2369.67 feet to the center of Muddy Creek, said point being referenced by a 5/8" iron rod set at a point 35.0 feet N 89°40'25" W of said point in the center of Muddy Creek; thence northerly along the center of said Muddy Creek to its intersection with the east line of Section 3 in said Township 14 South, Range 4 West; thence N 00° 36'36" W along the east line of said Section 3, a distance of 510.0 feet to the northwest corner of the southwest quarter of the southwest quarter of Section 2 in said Township 14 South, Range 4 West, said point being in the center of County Road No. 219; thence N 89°57'59" E along the north line of the south half of the southwest quarter of said Section 2, a distance of 2662.50 feet to the northeast corner of said south half of the southwest quarter of Section 2; thence S 89°55'06" E along the north line of the south half of the southeast quarter of said section 2, a distance of 2640.44 feet to the northeast corner of the south half of the southeast quarter of said Section 2; thence N 00°03'26" W along the east line of said Section 2 to the east quarter corner of said Section 2, which is the Point of Beginning.

Staff Review of the Application. Commission Staff reviewed PacifiCorp's application and wrote a memorandum for Commission consideration. The memorandum, which recommended approval of PacifiCorp's application with conditions, is attached as Appendix A to this order and adopted as discussed below. In it, Staff describes the application and its review in detail.

Notice Provision. ORS 758.420 provides:

(1) A contract entered into pursuant to ORS 758.410 shall be promptly filed with the Public Utility Commission, and the commission shall, within 30 days after such filing, give notice of such filing. If the commission chooses or if any customer or customers request a hearing on the matter within 30 days of the notice, the commission shall hold a hearing by telephone or in person. The commission shall give notice of such hearing within 30 days of the customer's request which notice shall set the date and place of hearing on the question as to whether or not such contract will be approved. The hearing shall be held at a place within or conveniently accessible to the territories affected by the contract.

(2) The commission shall publish notice of the filing in a newspaper or newspapers of general circulation in each of the territories affected by the contract. Each such notice shall be published at least once weekly for two successive weeks.

The Commission published notice of this filing as provided in ORS 758.420(2), on May 1 and May 8, 2002. On May 10 and May 22, 2002, PacifiCorp filed copies of Notice of Filing and Request for Approval and Waivers executed by each customer in the territory affected by PacifiCorp's application. PacifiCorp represents that these customers are the only customers in the area affected by the application. By signing the waiver, each customer acknowledges notice of PacifiCorp's application and waives the right to any additional notice or to request a hearing on the application under ORS 758.420. Although ORS 758.420 provides 30 days for customers to request a hearing, PacifiCorp's filing has dealt with all customers who might request a hearing, and the matter is now ripe for decision.

Commission Decision. At its May 28, 2002, Public Meeting, the Commission considered PacifiCorp's application and adopted Staff's recommendation. The Commission concluded that granting the application was appropriate with the conditions that Staff included. Those conditions are set out in the ordering paragraphs below. With respect to the fourth condition, regarding treatment of the gain on the sale of facilities, it is the Commission's intention that taxes will be chargeable against the net gain payable to customers. PacifiCorp and staff should develop appropriate accounting to achieve this objective.

ORDER

IT IS ORDERED that:

1. PacifiCorp's application to transfer its electric properties and service territory at Halsey, Oregon, to Emerald People's Utility District is approved.
2. The approval is subject to the following conditions:
 - a. PacifiCorp shall provide the Commission access to all its books of account, as well as all its documents, data, and records that pertain to the electric property sale to EPUD. Additionally, PacifiCorp shall provide copies of all journal entries and final documents regarding the property sale to EPUD.
 - b. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or alternative form of regulation.

- c. PacifiCorp shall notify the Commission in advance of any substantive changes to the Asset Transfer Agreement (the Agreement), including any material changes in any revenue or cost. Any changes to the terms that alter the intent and extent of activities under the Agreement from those approved herein shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
- d. For accounting purposes, PacifiCorp shall record 95 percent of the before tax net gain, estimated to be nearly \$2.3 million, on its regulated books in a balancing account. This gain should be recorded when PacifiCorp receives revenues from the sale and then begin accruing interest at PacifiCorp's authorized rate of return until the balance is fully paid to its customers.
- e. It is the Commission's intention that taxes will be chargeable against the net gain payable to customers. PacifiCorp and the staff shall develop appropriate accounting to achieve this objective.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

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